

CHAPTER 402
PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM—
ELIGIBILITY, BENEFITS, AND PAYMENTS

[Prior to 10/27/04, see 581—Ch 24]

661—402.1 to 402.99 Reserved.

DIVISION I
ELIGIBILITY

661—402.100(97A) Age of qualification. The age of qualification for benefits under Iowa Code Supplement chapter 97A shall mean the age on the member's last birthday.

661—402.101(97A) Date of retirement. Date of retirement shall mean the first day on retirement and not the last day on duty.

661—402.102(97A) Application of Iowa Code Supplement section 97A.6, subsection 12. Iowa Code Supplement section 97A.6, subsection 12, applies to the deceased member's spouse and children only if the spouse was married to the deceased member at or before the time of retirement and the children are the natural children of the deceased member or were legally adopted at or before the time of retirement of the member. If there is no surviving spouse of a marriage solemnized prior to retirement of a deceased member, then "surviving spouse" means a surviving spouse of a marriage of two years or more solemnized subsequent to the retirement of the member.

661—402.103(97A) Date of death. In the event of the death of a member, the date of death will be considered to be the member's last day on the payroll for earned compensation or on pension, and the next day following will be the first day for the spouse's and children's benefits. The start of benefits shall not be delayed by the payout of any other compensation.

661—402.104(97A) Age of spouse. When the spouse of a deceased active member is to receive an annuity payment from the member's contributions, the age of the spouse at the spouse's nearest birthday shall govern. The computation shall be the spouse's birth date subtracted from the first date that spouse's benefits begin to accrue.

661—402.105 to 402.199 Reserved.

DIVISION II
BENEFITS AND PAYMENTS

661—402.200(97A) Computation of average final compensation. Computation of the average final compensation shall be made using the earnable compensation of the member during the three years of the member's service as a member of the department during which the member received the highest amount of compensation. Overtime compensation, if any, and periods without pay shall not be considered in this computation.

EXCEPTION: If a member retires before attaining three years of service, the average final compensation shall be the total of the earnable compensation from the date the member was sworn into service divided by the number of months of service and multiplied by 12.

661—402.201(97A) Workers' compensation—effect on benefit payment. If workers' compensation benefits are payable because of a member's disability or death, the retirement or death benefit payable, other than a line-of-duty death benefit paid pursuant to 661—Chapter 403, from the system shall be reduced by the actuarial equivalent of the total workers' compensation.

402.201(1) Monthly peace officers' retirement system benefits shall be reduced by the monthly benefit received from workers' compensation.

402.201(2) Peace officers' retirement system benefits shall be reduced in the amount of permanent partial disability benefits paid by workers' compensation. Benefits will be withheld in the amount of permanent partial disability benefits.

402.201(3) Salary payments made by the department to a member in temporary incapacity status pursuant to the provisions of 661—Chapter 404 shall be reduced by the amount of any workers' compensation payments to the member received while the member is in temporary incapacity status.

661—402.202(97A) Errors in payments. If an error in payments already made to a member or beneficiary is discovered, arrangements shall be made to correct the error, either through recovery of overpayments from the member or beneficiary or through additional compensation paid to the member or beneficiary to adjust for underpayments. Schedules referenced in this rule shall commence only after presentation to and approval by the board of trustees.

402.202(1) As soon as practical after being discovered, underpayments shall be corrected through a lump-sum payment to the member or beneficiary in an amount equal to the total amount of underpayments to date and an amount of interest such that the total lump-sum payment is actuarially equivalent to the total amount of underpayments. The member or beneficiary may request a method of repayment other than a lump-sum payment, in which case a repayment schedule may be mutually agreed upon between the board and the member or beneficiary.

402.202(2) Overpayments other than those which resulted from fraudulent acts on the part of the member or beneficiary receiving the payments shall be recovered from the member or beneficiary. The preferred method of recovery, if the member or beneficiary is continuing to receive payments from the system, shall be withholding monthly an amount equivalent to the monthly average of the amount of overpayments during the period in which the overpayments were made, until total repayments equal a sum actuarially equivalent to the total amount of overpayment. If the member or beneficiary is not receiving payments from the system, the board may seek repayment in a lump sum including the amount of overpayments and interest in an amount such that the total repayment is actuarially equivalent to the total amount of overpayments, although the member or beneficiary may request a repayment schedule be established and the board may agree to do so.

402.202(3) An overpayment which resulted in whole or in part from a fraudulent act or acts on the part of the member or beneficiary receiving the payments shall be repaid to the system in an amount which is actuarially equivalent to the amount of the overpayment plus a reasonable assessment of the administrative costs to the system and the department to recover the overpayment. The preferred method of repayment is a lump-sum payment collected as soon as practical after the overpayment and the fraudulent act are discovered, although the board shall accept a repayment schedule established by a court which orders restitution in relation to a conviction stemming from the fraudulent act or acts. The board may agree to an alternative payment schedule at the request of the member or beneficiary if there is no applicable order of restitution.

The board may find, on the basis of clear and convincing evidence, that an overpayment resulted from a fraudulent act or acts on the part of a member or beneficiary. A conviction based upon a fraudulent act or acts committed in relation to the receipt of benefits from the system shall be prima facie evidence of fraud for purposes of this subrule.

661—402.203(97A) Initial benefit for a child. Initial benefit for a child as specified in Iowa Code Supplement section 97A.6, subsection 8, 9 or 12, shall be 6 percent of the monthly earnable compensation payable to an active member having the rank of senior trooper of the Iowa state patrol. A senior trooper, for the purposes of Iowa Code Supplement chapter 97A, is a peace officer having at least ten years of active service with the Iowa state patrol.

661—402.204(97A) Computation for partial month. Computation of retirement benefits for a partial month shall be based on the actual number of days in the month, i.e., monthly benefits divided by the number of days in the month multiplied by the number of days due.

661—402.205(97A) One year of service. For the purpose of computing service, service for fewer than six months of a year is not creditable as service. Service of six months or more in any year shall be equivalent to one year of service; however, in no case shall a member receive more than one year of service credit for each 12-month period of service.

661—402.206(97A) Termination prior to retirement.

402.206(1) Members who terminate covered employment prior to age 55 other than by death or disability have certain rights to their accumulated contributions.

a. A member with fewer than four years of service is not entitled to benefits under the system. A member terminating employment with less than four years of service has the following options for the handling of the member's contributions to the system:

- (1) The member may withdraw the member's contributions along with accumulated interest.
- (2) The member may have all or a part of the member's qualifying contributions along with accumulated interest rolled forward to a qualified retirement plan and may withdraw the balance of the member's contributions.
- (3) The member may leave the member's contributions in the system as long as the member continues to be a member of the system. A member ceases to be a member of the system should the member in any period of five consecutive years after last becoming a member be absent from service for more than four years. Should a member cease to be a member, the member's contributions shall be paid to the member as provided in this paragraph.

b. A member with four or more years of service is a "vested member" and is entitled to benefits under the system. The member's options under the system are as follows:

- (1) Upon attaining retirement age, the member may receive a service retirement allowance of four twenty-seconds of the retirement allowance the member would receive at retirement if the member's employment had not been terminated, and an additional one twenty-second of such retirement allowance for each additional year of service not exceeding 22 years of service. Should the member have over 22 years of service, upon the member's retirement there shall be added $2\frac{3}{4}$ percent of the member's average final compensation for each year over 22 years for up to 10 additional years of service. The amount of the retirement allowance shall be calculated in the manner provided in this subparagraph using the average final compensation at the time of termination of the member's employment.
- (2) The member may withdraw the member's contributions pursuant to Iowa Code section 97A.16, along with accumulated interest.
- (3) The member may have all or a part of the member's qualifying contributions along with accumulated interest rolled forward to a qualified retirement plan and may withdraw the balance of the member's contributions.

402.206(2) The interest rate shall be the composite rate of return for the fiscal year as reflected in the investment performance analysis, provided by the investment consultants for the system, as specified in the report for the quarter ending June 30 of the fiscal year, adjusted by the administrative expense of the system for the fiscal year. The administrative expense rate shall be calculated by dividing the actual administrative expense for the fiscal year by the fund balance on June 30 of the fiscal year.

402.206(3) Interest shall be credited to the member's account annually as of June 30. The interest credited to the member shall be calculated by multiplying the annual interest rate by the member's average balance for the fiscal year, with interest credited for each full month of membership.

402.206(4) Members withdrawing contributions under this rule shall submit a written request to the secretary.

661—402.207(97A) Optional retirement benefits. Members of the system who retire under a service retirement may elect to receive one of the following optional retirement benefits and have the optional retirement benefit or a designated fraction of the benefit paid to the member's beneficiary:

1. Straight life annuity.
2. Straight life annuity with five years certain.
3. Straight life annuity with ten years certain.
4. Joint and 50 percent survivor annuity.
5. Joint and 75 percent survivor annuity.
6. Joint and 100 percent survivor annuity.
7. Single life annuity with a designated lump sum.

For the purposes of this rule, a "beneficiary" means a member's spouse, child, or dependent parent.

661—402.208(97A) Options not reversible once payments begin—exceptions.

402.208(1) The member may change or cancel the member's selected optional benefit until the first monthly benefit payment is made using the selected option. After the first monthly payment to the member or beneficiary, the option shall become permanent and not subject to cancellation or change.

402.208(2) If a member dies without designating a beneficiary prior to receipt in benefits of an amount equal to the total amount in the member's credit at the time of separation from service, the election is void.

402.208(3) If a member who has designated a beneficiary dies and the beneficiary subsequently dies prior to receipt in benefits of an amount equal to the total amount in the member's credit at the time of separation from service, the election remains valid.

661—402.209(97A) Method of calculating annual adjustments when optional retirement benefits are selected. Whenever an optional benefit as provided for in rule 661—402.207(97A) has been selected by a member, the annual adjustments provided for in Iowa Code Supplement section 97A.6, subsection 14, shall continue to be provided.

661—402.210(97A) Termination of benefits when optional retirement benefits are selected. Whenever an optional benefit as provided for in rule 661—402.207(97A) has been selected by a member, benefit payments shall terminate as follows, except as provided in rule 661—402.208(97A):

1. Straight life annuity. Upon the death of the retired member, all future retirement payments shall cease.
2. Straight life annuity with five years certain. Upon the death of the retired member, or five years from the member's original retirement date, whichever is later, all future retirement payments shall cease.

3. Straight life annuity with ten years certain. Upon the death of the retired member, or ten years from the member's original retirement date, whichever is later, all future retirement payments shall cease.

4. Joint and 50 percent survivor annuity. Upon the death of the retired member, the surviving beneficiary shall have the beneficiary's annual annuity established at 50 percent of the member's amount. Upon the death of both the member and the beneficiary, all future retirement payments shall cease.

5. Joint and 75 percent survivor annuity. Upon the death of the retired member, the surviving beneficiary shall have the beneficiary's annual annuity established at 75 percent of the member's amount. Upon the death of both the member and the beneficiary, all future retirement payments shall cease.

6. Joint and 100 percent survivor annuity. Upon the death of the retired member, the surviving beneficiary shall have the annual annuity continue at the member's amount. Upon the death of both the member and the beneficiary, all future retirement payments shall cease.

7. Single life annuity with a designated lump sum. Upon the death of the retired member, the beneficiary shall receive the single lump-sum payment, and all future retirement payments shall cease.

661—402.211(97A) Impact of optional benefit selections on child benefits. The selection of an optional retirement benefit by a member shall not change the benefit that a child of a deceased member would otherwise be eligible to receive.

These rules are intended to implement Iowa Code Supplement chapter 97A.

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